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13 FRESNO, UNKNOWN LAW
14 ENFORCEMENT OFFICERS, and
15 POLICE CHIEF PACO BALDERRAMA

16 **UNITED STATES DISTRICT COURT**
17 **EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION**

18 MARTHA ZEPEDA OLIVARES,
19 individually and on behalf of the
20 ESTATE OF MAXIMILIANO SOSA,
21 JR.; MAXIMILIANO SOSA, SR.,

22 Plaintiffs,

23 v.

24 CITY OF FRESNO, UNKNOWN
25 LAW ENFORCEMENT OFFICERS,
26 POLICE CHIEF PACO
27 BALDERRAMA and DOES 1-30,

28 Defendants.

Case No. 1:23-cv-01575-JLT-SAB
District Judge Jennifer L. Thurston
Magistrate Judge Barbara A. McAuliffe

**DEFENDANT CITY OF FRESNO
JOHN AYERS, BRANDON
CROCKETT, JONATHAN
ABRAHAM, and, ANTHONY
AGUILAR'S ANSWER TO
PLAINTIFFS' SECOND AMENDED
COMPLAINT FOR DAMAGES**

SAC Filed: 06/30/25
Trial Date: 04/06/27

28 MARIA SOSA, L.S. by and through
29 guardian ad litem MARIA SOSA, M.S.
30 by and through guardian ad litem
31 JENNIFER LOPEZ, individually and as
32 successors-in-interest to Maximiliano
33 Sosa,

34 Plaintiffs,

35 v.

36 CITY OF FRESNO and DOES 1-5,

37 Defendants.

1 Defendants CITY OF FRESNO, JOHN AYERS, BRANDON CROCKETT,
2 JONATHAN ABRAHAM, and, ANTHONY AGUILAR ("Defendants") hereby
3 answer the Second Amended Complaint of Plaintiffs MARIA SOSA, L.S., by and
4 through guardian ad litem MARIA SOSA, and M.S., by and through guardian ad litem
5 JENNIFER LOPEZ (Doc. 63), and Defendants hereby admit, deny, and allege as
6 follows:

7 1. Answering Paragraph 1 of the SAC: Answering Defendants do not have
8 sufficient knowledge, or information or belief, to enable Defendants to answer the
9 allegations contained within this paragraph, as stated, and on those grounds denies
10 generally and specifically each and every allegation contained therein – and
11 Defendants deny all liability and/or wrongdoing.

12 2. Answering Paragraph 2 of the SAC: Answering Defendants admit that
13 jurisdiction is vested in this Court under 28 U.S.C. § 1331 and 28 U.S.C. § 1343(a)(3)-
14 (4).

15 3. Answering Paragraph 3 of the SAC: Answering Defendants admit that
16 this Court has supplemental jurisdiction over Plaintiffs' state law claims under 28
17 U.S.C. § 1337(a).

18 4. Answering Paragraph 4 of the SAC: Answering Defendants admit that
19 venue is proper under 28 U.S.C. § 1391(b).

20 5. Answering Paragraph 5 of the SAC: Answering Defendants admit that
21 plaintiffs submitted government tort claims to the City that were rejected.

22 6. Answering Paragraph 6 of the SAC: Answering Defendants admit that
23 plaintiffs submitted government tort claims to the City that were rejected.

24 7. Answering Paragraph 7 of the SAC: Answering Defendants admit that
25 plaintiffs submitted government tort claims to the City that were rejected.

26 8. Answering Paragraph 8 of the SAC: Answering Defendants do not have
27 sufficient knowledge, or information or belief, to enable Defendants to answer the
28 allegations contained within this paragraph, as stated, and on those grounds denies

1 generally and specifically each and every allegation contained therein – and
2 Defendants deny all liability and/or wrongdoing.

3 9. Answering Paragraph 9 of the SAC: Answering Defendants do not have
4 sufficient knowledge, or information or belief, to enable Defendants to answer the
5 allegations contained within this paragraph, as stated, and on those grounds denies
6 generally and specifically each and every allegation contained therein – and
7 Defendants deny all liability and/or wrongdoing.

8 10. Answering Paragraph 10 of the SAC: Answering Defendants do not have
9 sufficient knowledge, or information or belief, to enable Defendants to answer the
10 allegations contained within this paragraph, as stated, and on those grounds denies
11 generally and specifically each and every allegation contained therein – and
12 Defendants deny all liability and/or wrongdoing.

13 11. Answering Paragraph 11 of the SAC: Answering Defendants do not have
14 sufficient knowledge, or information or belief, to enable Defendants to answer the
15 allegations contained within this paragraph, as stated, and on those grounds denies
16 generally and specifically each and every allegation contained therein – and
17 Defendants deny all liability and/or wrongdoing.

18 12. Answering Paragraph 12 of the SAC: Answering Defendants admit that
19 the City of Fresno was at all times mentioned in the Complaint a municipal
20 corporation duly authorized to operate under the laws of the state of California, and
21 operated the Fresno Police Department under its supervision. As to the remaining
22 allegations of this paragraph, Defendants do not have sufficient knowledge, or
23 information or belief, to enable Defendants to answer the allegations contained within
24 this paragraph, as stated, and on those grounds denies generally and specifically each
25 and every allegation contained therein – and Defendants deny all liability and/or
26 wrongdoing.

27 13. Answering Paragraph 13 of the SAC: Answering Defendants do not have
28 sufficient knowledge, or information or belief, to enable Defendants to answer the

1 allegations contained within this paragraph, as stated, and on those grounds denies
2 generally and specifically each and every allegation contained therein – and
3 Defendants deny all liability and/or wrongdoing.

4 14. Answering Paragraph 14 of the SAC: Answering Defendants do not have
5 sufficient knowledge, or information or belief, to enable Defendants to answer the
6 allegations contained within this paragraph, as stated, and on those grounds denies
7 generally and specifically each and every allegation contained therein – and
8 Defendants deny all liability and/or wrongdoing.

9 15. Answering Paragraph 15 of the SAC: Answering Defendants do not have
10 sufficient knowledge, or information or belief, to enable Defendants to answer the
11 allegations contained within this paragraph, as stated, and on those grounds denies
12 generally and specifically each and every allegation contained therein – and
13 Defendant denies all liability and/or wrongdoing.

14 16. Answering Paragraph 16 of the SAC: Answering Defendants do not have
15 sufficient knowledge, or information or belief, to enable Defendants to answer the
16 allegations contained within this paragraph, as stated, and on those grounds denies
17 generally and specifically each and every allegation contained therein – and
18 Defendants deny all liability and/or wrongdoing.

19 17. Answering Paragraph 17 of the SAC: Answering Defendants do not have
20 sufficient knowledge, or information or belief, to enable Defendants to answer the
21 allegations contained within this paragraph, as stated, and on those grounds denies
22 generally and specifically each and every allegation contained therein – and
23 Defendants deny all liability and/or wrongdoing.

24 18. Answering Paragraph 18 of the SAC: Answering Defendants do not have
25 sufficient knowledge, or information or belief, to enable Defendants to answer the
26 allegations contained within this paragraph, as stated, and on those grounds denies
27 generally and specifically each and every allegation contained therein – and
28 Defendants deny all liability and/or wrongdoing.

1 19. Answering Paragraph 19 of the SAC: Answering Defendants do not have
2 sufficient knowledge, or information or belief, to enable Defendants to answer the
3 allegations contained within this paragraph, as stated, and on those grounds denies
4 generally and specifically each and every allegation contained therein – and
5 Defendants deny all liability and/or wrongdoing.

6 20. Answering Paragraph 20 of the SAC: Answering Defendants do not have
7 sufficient knowledge, or information or belief, to enable Defendants to answer the
8 allegations contained within this paragraph, as stated, and on those grounds denies
9 generally and specifically each and every allegation contained therein – and
10 Defendants deny all liability and/or wrongdoing.

11 21. Answering Paragraph 21 of the SAC: Answering Defendants do not have
12 sufficient knowledge, or information or belief, to enable Defendants to answer the
13 allegations contained within this paragraph, as stated, and on those grounds denies
14 generally and specifically each and every allegation contained therein – and
15 Defendants deny all liability and/or wrongdoing.

16 22. Answering Paragraph 22 of the SAC: Answering Defendants do not have
17 sufficient knowledge, or information or belief, to enable Defendants to answer the
18 allegations contained within this paragraph, as stated, and on those grounds denies
19 generally and specifically each and every allegation contained therein – and
20 Defendants deny all liability and/or wrongdoing.

21 23. Answering Paragraph 23 of the SAC: Answering Defendants do not have
22 sufficient knowledge, or information or belief, to enable Defendants to answer the
23 allegations contained within this paragraph, as stated, and on those grounds denies
24 generally and specifically each and every allegation contained therein – and
25 Defendants deny all liability and/or wrongdoing.

26 24. Answering Paragraph 24 of the SAC: Answering Defendants do not have
27 sufficient knowledge, or information or belief, to enable Defendants to answer the
28 allegations contained within this paragraph, as stated, and on those grounds denies

1 generally and specifically each and every allegation contained therein – and
2 Defendants deny all liability and/or wrongdoing.

3 25. Answering Paragraph 25 of the SAC: Answering Defendants do not have
4 sufficient knowledge, or information or belief, to enable Defendants to answer the
5 allegations contained within this paragraph, as stated, and on those grounds denies
6 generally and specifically each and every allegation contained therein – and
7 Defendants deny all liability and/or wrongdoing.

8 26. Answering Paragraph 26 of the SAC: Answering Defendants do not have
9 sufficient knowledge, or information or belief, to enable Defendants to answer the
10 allegations contained within this paragraph, as stated, and on those grounds denies
11 generally and specifically each and every allegation contained therein – and
12 Defendants deny all liability and/or wrongdoing.

13 27. Answering Paragraph 27 of the SAC: Answering Defendants do not have
14 sufficient knowledge, or information or belief, to enable Defendants to answer the
15 allegations contained within this paragraph, as stated, and on those grounds denies
16 generally and specifically each and every allegation contained therein – and
17 Defendants deny all liability and/or wrongdoing.

18 28. Answering Paragraph 28 of the SAC: Answering Defendants do not have
19 sufficient knowledge, or information or belief, to enable Defendant to answer the
20 allegations contained within this paragraph, as stated, and on those grounds denies
21 generally and specifically each and every allegation contained therein – and
22 Defendant denies all liability and/or wrongdoing.

23 29. Answering Paragraph 29 of the SAC: Answering Defendants do not have
24 sufficient knowledge, or information or belief, to enable Defendants to answer the
25 allegations contained within this paragraph, as stated, and on those grounds denies
26 generally and specifically each and every allegation contained therein – and
27 Defendants deny all liability and/or wrongdoing.

28 30. Answering Paragraph 30 of the SAC: Answering Defendants do not have

1 sufficient knowledge, or information or belief, to enable Defendants to answer the
2 allegations contained within this paragraph, as stated, and on those grounds denies
3 generally and specifically each and every allegation contained therein – and
4 Defendants deny all liability and/or wrongdoing.

5 31. Answering Paragraph 31 of the SAC: Answering Defendants do not have
6 sufficient knowledge, or information or belief, to enable Defendants to answer the
7 allegations contained within this paragraph, as stated, and on those grounds denies
8 generally and specifically each and every allegation contained therein – and
9 Defendants deny all liability and/or wrongdoing.

10 32. Answering Paragraph 32 of the SAC: Answering Defendants do not have
11 sufficient knowledge, or information or belief, to enable Defendants to answer the
12 allegations contained within this paragraph, as stated, and on those grounds denies
13 generally and specifically each and every allegation contained therein – and
14 Defendants deny all liability and/or wrongdoing.

15 33. Answering Paragraph 33 of the SAC: Answering Defendants do not have
16 sufficient knowledge, or information or belief, to enable Defendants to answer the
17 allegations contained within this paragraph, as stated, and on those grounds denies
18 generally and specifically each and every allegation contained therein – and
19 Defendants deny all liability and/or wrongdoing.

20 34. Answering Paragraph 34 of the SAC: Answering Defendants do not have
21 sufficient knowledge, or information or belief, to enable Defendants to answer the
22 allegations contained within this paragraph, as stated, and on those grounds denies
23 generally and specifically each and every allegation contained therein – and
24 Defendants deny all liability and/or wrongdoing.

25 35. Answering Paragraph 35 of the SAC: Answering Defendants do not have
26 sufficient knowledge, or information or belief, to enable Defendants to answer the
27 allegations contained within this paragraph, as stated, and on those grounds denies
28 generally and specifically each and every allegation contained therein – and

1 Defendants deny all liability and/or wrongdoing.

2 36. Answering Paragraph 36 of the SAC: Answering Defendants repeat,
3 reiterate, and re-allege all of the admissions and denials contained in the foregoing
4 Answer which are set forth to each and every allegation contained in paragraphs 1
5 through 35, inclusive, of the SAC.

6 37. Answering Paragraph 37 of the SAC: Answering Defendants do not have
7 sufficient knowledge, or information or belief, to enable Defendants to answer the
8 allegations contained within this paragraph, as stated, and on those grounds denies
9 generally and specifically each and every allegation contained therein – and
10 Defendants deny all liability and/or wrongdoing.

11 38. Answering Paragraph 38 of the SAC: Answering Defendants do not have
12 sufficient knowledge, or information or belief, to enable Defendants to answer the
13 allegations contained within this paragraph, as stated, and on those grounds denies
14 generally and specifically each and every allegation contained therein – and
15 Defendants deny all liability and/or wrongdoing.

16 39. Answering Paragraph 39 of the SAC: Answering Defendants do not have
17 sufficient knowledge, or information or belief, to enable Defendants to answer the
18 allegations contained within this paragraph, as stated, and on those grounds denies
19 generally and specifically each and every allegation contained therein – and
20 Defendants deny all liability and/or wrongdoing.

21 40. Answering Paragraph 40 of the SAC: Answering Defendants do not have
22 sufficient knowledge, or information or belief, to enable Defendants to answer the
23 allegations contained within this paragraph, as stated, and on those grounds denies
24 generally and specifically each and every allegation contained therein – and
25 Defendants deny all liability and/or wrongdoing.

26 41. Answering Paragraph 41 of the SAC: Answering Defendants do not have
27 sufficient knowledge, or information or belief, to enable Defendants to answer the
28 allegations contained within this paragraph, as stated, and on those grounds denies

1 generally and specifically each and every allegation contained therein – and
2 Defendants deny all liability and/or wrongdoing.

3 42. Answering Paragraph 42 of the SAC: Answering Defendants do not have
4 sufficient knowledge, or information or belief, to enable Defendants to answer the
5 allegations contained within this paragraph, as stated, and on those grounds denies
6 generally and specifically each and every allegation contained therein – and
7 Defendants deny all liability and/or wrongdoing.

8 43. Answering Paragraph 43 of the SAC: Answering Defendants do not have
9 sufficient knowledge, or information or belief, to enable Defendants to answer the
10 allegations contained within this paragraph, as stated, and on those grounds denies
11 generally and specifically each and every allegation contained therein – and
12 Defendants deny all liability and/or wrongdoing.

13 44. Answering Paragraph 44 of the SAC: Answering Defendants do not have
14 sufficient knowledge, or information or belief, to enable Defendant to answer the
15 allegations contained within this paragraph, as stated, and on those grounds denies
16 generally and specifically each and every allegation contained therein – and
17 Defendants deny all liability and/or wrongdoing.

18 45. Answering Paragraph 45 of the SAC: Answering Defendants do not have
19 sufficient knowledge, or information or belief, to enable Defendants to answer the
20 allegations contained within this paragraph, as stated, and on those grounds denies
21 generally and specifically each and every allegation contained therein – and
22 Defendants deny all liability and/or wrongdoing.

23 46. Answering Paragraph 46 of the SAC: Answering Defendants do not have
24 sufficient knowledge, or information or belief, to enable Defendants to answer the
25 allegations contained within this paragraph, as stated, and on those grounds denies
26 generally and specifically each and every allegation contained therein – and
27 Defendants deny all liability and/or wrongdoing.

28 47. Answering Paragraph 47 of the SAC: Answering Defendants do not have

1 sufficient knowledge, or information or belief, to enable Defendants to answer the
2 allegations contained within this paragraph, as stated, and on those grounds denies
3 generally and specifically each and every allegation contained therein – and
4 Defendants deny all liability and/or wrongdoing.

5 48. Answering Paragraph 48 of the SAC: Answering Defendants do not have
6 sufficient knowledge, or information or belief, to enable Defendants to answer the
7 allegations contained within this paragraph, as stated, and on those grounds denies
8 generally and specifically each and every allegation contained therein – and
9 Defendants deny all liability and/or wrongdoing.

10 49. Answering Paragraph 49 of the SAC: Answering Defendants repeat,
11 reiterate, and re-allege all of the admissions and denials contained in the foregoing
12 Answer which are set forth to each and every allegation contained in paragraphs 1
13 through 48, inclusive, of the SAC.

14 50. Answering Paragraph 50 of the SAC: Answering Defendants do not have
15 sufficient knowledge, or information or belief, to enable Defendants to answer the
16 allegations contained within this paragraph, as stated, and on those grounds denies
17 generally and specifically each and every allegation contained therein – and
18 Defendants deny all liability and/or wrongdoing.

19 51. Answering Paragraph 51 of the SAC: Answering Defendants do not have
20 sufficient knowledge, or information or belief, to enable Defendants to answer the
21 allegations contained within this paragraph, as stated, and on those grounds denies
22 generally and specifically each and every allegation contained therein – and
23 Defendants deny all liability and/or wrongdoing.

24 52. Answering Paragraph 52 of the SAC: Answering Defendants do not have
25 sufficient knowledge, or information or belief, to enable Defendants to answer the
26 allegations contained within this paragraph, as stated, and on those grounds denies
27 generally and specifically each and every allegation contained therein – and
28 Defendants deny all liability and/or wrongdoing.

1 53. Answering Paragraph 53 of the SAC: Answering Defendants do not have
2 sufficient knowledge, or information or belief, to enable Defendants to answer the
3 allegations contained within this paragraph, as stated, and on those grounds denies
4 generally and specifically each and every allegation contained therein – and
5 Defendants deny all liability and/or wrongdoing.

6 54. Answering Paragraph 54 of the SAC: Answering Defendants do not have
7 sufficient knowledge, or information or belief, to enable Defendants to answer the
8 allegations contained within this paragraph, as stated, and on those grounds denies
9 generally and specifically each and every allegation contained therein – and
10 Defendants deny all liability and/or wrongdoing.

11 55. Answering Paragraph 55 of the SAC: Answering Defendants do not have
12 sufficient knowledge, or information or belief, to enable Defendants to answer the
13 allegations contained within this paragraph, as stated, and on those grounds denies
14 generally and specifically each and every allegation contained therein – and
15 Defendants deny all liability and/or wrongdoing.

16 56. Answering Paragraph 56 of the SAC: Answering Defendants do not have
17 sufficient knowledge, or information or belief, to enable Defendants to answer the
18 allegations contained within this paragraph, as stated, and on those grounds denies
19 generally and specifically each and every allegation contained therein – and
20 Defendant deny all liability and/or wrongdoing.

21 57. Answering Paragraph 57 of the SAC: Answering Defendants do not have
22 sufficient knowledge, or information or belief, to enable Defendants to answer the
23 allegations contained within this paragraph, as stated, and on those grounds denies
24 generally and specifically each and every allegation contained therein – and
25 Defendants dey all liability and/or wrongdoing.

26 58. Answering Paragraph 58 of the SAC: Answering Defendants do not have
27 sufficient knowledge, or information or belief, to enable Defendants to answer the
28 allegations contained within this paragraph, as stated, and on those grounds denies

1 generally and specifically each and every allegation contained therein – and
2 Defendants deny all liability and/or wrongdoing.

3 59. Answering Paragraph 59 of the SAC: Answering Defendants do not have
4 sufficient knowledge, or information or belief, to enable Defendants to answer the
5 allegations contained within this paragraph, as stated, and on those grounds denies
6 generally and specifically each and every allegation contained therein – and
7 Defendants deny all liability and/or wrongdoing.

8 60. Answering Paragraph 60 of the SAC: Answering Defendants repeat,
9 reiterate, and re-allege all of the admissions and denials contained in the foregoing
10 Answer which are set forth to each and every allegation contained in paragraphs 1
11 through 59, inclusive, of the SAC.

12 61. Answering Paragraph 61 of the SAC: Answering Defendants do not have
13 sufficient knowledge, or information or belief, to enable Defendants to answer the
14 allegations contained within this paragraph, as stated, and on those grounds denies
15 generally and specifically each and every allegation contained therein – and
16 Defendants deny all liability and/or wrongdoing.

17 62. Answering Paragraph 62 of the SAC including subsections (a) – (k):
18 Answering Defendants do not have sufficient knowledge, or information or belief, to
19 enable Defendants to answer the allegations contained within this paragraph, as stated,
20 and on those grounds denies generally and specifically each and every allegation
21 contained therein – and Defendants deny all liability and/or wrongdoing.

22 63. Answering Paragraph 63 of the SAC: Answering Defendants do not have
23 sufficient knowledge, or information or belief, to enable Defendants to answer the
24 allegations contained within this paragraph, as stated, and on those grounds denies
25 generally and specifically each and every allegation contained therein – and
26 Defendants deny all liability and/or wrongdoing.

27 64. Answering Paragraph 64 of the SAC including subsections (a) – (f):
28 Answering Defendants do not have sufficient knowledge, or information or belief, to

1 enable Defendants to answer the allegations contained within this paragraph, as stated,
2 and on those grounds denies generally and specifically each and every allegation
3 contained therein – and Defendants deny all liability and/or wrongdoing.

4 65. Answering Paragraph 65 of the SAC: Answering Defendants do not have
5 sufficient knowledge, or information or belief, to enable Defendants to answer the
6 allegations contained within this paragraph, as stated, and on those grounds denies
7 generally and specifically each and every allegation contained therein – and
8 Defendants deny all liability and/or wrongdoing.

9 66. Answering Paragraph 66 of the SAC: Answering Defendants do not have
10 sufficient knowledge, or information or belief, to enable Defendants to answer the
11 allegations contained within this paragraph, as stated, and on those grounds denies
12 generally and specifically each and every allegation contained therein – and
13 Defendants deny all liability and/or wrongdoing.

14 67. Answering Paragraph 67 of the SAC: Answering Defendants do not have
15 sufficient knowledge, or information or belief, to enable Defendants to answer the
16 allegations contained within this paragraph, as stated, and on those grounds denies
17 generally and specifically each and every allegation contained therein – and
18 Defendants deny all liability and/or wrongdoing.

19 68. Answering Paragraph 68 of the SAC: Answering Defendants do not have
20 sufficient knowledge, or information or belief, to enable Defendants to answer the
21 allegations contained within this paragraph, as stated, and on those grounds denies
22 generally and specifically each and every allegation contained therein – and
23 Defendants deny all liability and/or wrongdoing.

24 69. Answering Paragraph 69 of the SAC: Answering Defendants do not have
25 sufficient knowledge, or information or belief, to enable Defendants to answer the
26 allegations contained within this paragraph, as stated, and on those grounds denies
27 generally and specifically each and every allegation contained therein – and
28 Defendants deny all liability and/or wrongdoing.

1 70. Answering Paragraph 70 of the SAC: Answering Defendants do not have
2 sufficient knowledge, or information or belief, to enable Defendants to answer the
3 allegations contained within this paragraph, as stated, and on those grounds denies
4 generally and specifically each and every allegation contained therein – and
5 Defendants deny all liability and/or wrongdoing.

6 71. Answering Paragraph 71 of the SAC: Answering Defendants do not have
7 sufficient knowledge, or information or belief, to enable Defendants to answer the
8 allegations contained within this paragraph, as stated, and on those grounds denies
9 generally and specifically each and every allegation contained therein – and
10 Defendants deny all liability and/or wrongdoing.

11 72. Answering Paragraph 72 of the SAC: Answering Defendants repeat,
12 reiterate, and re-allege all of the admissions and denials contained in the foregoing
13 Answer which are set forth to each and every allegation contained in paragraphs 1
14 through 71, inclusive, of the SAC.

15 73. Answering Paragraph 73 of the SAC: Answering Defendants do not have
16 sufficient knowledge, or information or belief, to enable Defendants to answer the
17 allegations contained within this paragraph, as stated, and on those grounds denies
18 generally and specifically each and every allegation contained therein – and
19 Defendants deny all liability and/or wrongdoing.

20 74. Answering Paragraph 74 of the SAC: Answering Defendants do not have
21 sufficient knowledge, or information or belief, to enable Defendants to answer the
22 allegations contained within this paragraph, as stated, and on those grounds denies
23 generally and specifically each and every allegation contained therein – and
24 Defendants deny all liability and/or wrongdoing.

25 75. Answering Paragraph 75 of the SAC: Answering Defendants do not have
26 sufficient knowledge, or information or belief, to enable Defendants to answer the
27 allegations contained within this paragraph, as stated, and on those grounds denies
28 generally and specifically each and every allegation contained therein – and

1 Defendants deny all liability and/or wrongdoing.

2 76. Answering Paragraph 76 of the SAC including subparagraphs (a)-(e):
3 Answering Defendants do not have sufficient knowledge, or information or belief, to
4 enable Defendants to answer the allegations contained within this paragraph, as stated,
5 and on those grounds denies generally and specifically each and every allegation
6 contained therein – and Defendants deny all liability and/or wrongdoing.

7 77. Answering Paragraph 77 of the SAC: Answering Defendants do not have
8 sufficient knowledge, or information or belief, to enable Defendants to answer the
9 allegations contained within this paragraph, as stated, and on those grounds denies
10 generally and specifically each and every allegation contained therein – and
11 Defendants deny all liability and/or wrongdoing.

12 78. Answering Paragraph 78 of the SAC: Answering Defendants do not have
13 sufficient knowledge, or information or belief, to enable Defendants to answer the
14 allegations contained within this paragraph, as stated, and on those grounds denies
15 generally and specifically each and every allegation contained therein – and
16 Defendants deny all liability and/or wrongdoing.

17 79. Answering Paragraph 79 of the SAC: Answering Defendants do not have
18 sufficient knowledge, or information or belief, to enable Defendants to answer the
19 allegations contained within this paragraph, as stated, and on those grounds denies
20 generally and specifically each and every allegation contained therein – and
21 Defendants deny all liability and/or wrongdoing.

22 80. Answering Paragraph 80 of the SAC: Answering Defendants do not have
23 sufficient knowledge, or information or belief, to enable Defendants to answer the
24 allegations contained within this paragraph, as stated, and on those grounds denies
25 generally and specifically each and every allegation contained therein – and
26 Defendants deny all liability and/or wrongdoing.

27 81. Answering Paragraph 81 of the SAC: Answering Defendants do not have
28 sufficient knowledge, or information or belief, to enable Defendants to answer the

1 allegations contained within this paragraph, as stated, and on those grounds denies
2 generally and specifically each and every allegation contained therein – and
3 Defendants deny all liability and/or wrongdoing.

4 82. Answering Paragraph 82 of the SAC: Answering Defendants repeat,
5 reiterate, and re-allege all of the admissions and denials contained in the foregoing
6 Answer which are set forth to each and every allegation contained in paragraphs 1
7 through 81, inclusive, of the SAC.

8 83. Answering Paragraph 83 of the SAC: Answering Defendants do not have
9 sufficient knowledge, or information or belief, to enable Defendants to answer the
10 allegations contained within this paragraph, as stated, and on those grounds denies
11 generally and specifically each and every allegation contained therein – and
12 Defendants deny all liability and/or wrongdoing.

13 84. Answering Paragraph 84 of the SAC: Answering Defendants do not have
14 sufficient knowledge, or information or belief, to enable Defendant to answer the
15 allegations contained within this paragraph, as stated, and on those grounds deny
16 generally and specifically each and every allegation contained therein – and
17 Defendants deny all liability and/or wrongdoing.

18 85. Answering Paragraph 85 of the SAC: Answering Defendants do not have
19 sufficient knowledge, or information or belief, to enable Defendant to answer the
20 allegations contained within this paragraph, as stated, and on those grounds deny
21 generally and specifically each and every allegation contained therein – and
22 Defendants deny all liability and/or wrongdoing.

23 86. Answering Paragraph 86 of the SAC: Answering Defendants do not have
24 sufficient knowledge, or information or belief, to enable Defendant to answer the
25 allegations contained within this paragraph, as stated, and on those grounds deny
26 generally and specifically each and every allegation contained therein – and
27 Defendants deny all liability and/or wrongdoing.

28 87. Answering Paragraph 87 of the SAC: Answering Defendants do not have

1 sufficient knowledge, or information or belief, to enable Defendant to answer the
2 allegations contained within this paragraph, as stated, and on those grounds deny
3 generally and specifically each and every allegation contained therein – and
4 Defendants deny all liability and/or wrongdoing.

5 88. Answering Paragraph 88 of the SAC: Answering Defendants do not have
6 sufficient knowledge, or information or belief, to enable Defendant to answer the
7 allegations contained within this paragraph, as stated, and on those grounds deny
8 generally and specifically each and every allegation contained therein – and
9 Defendants deny all liability and/or wrongdoing.

10 89. Answering Paragraph 89 of the SAC: Answering Defendants do not have
11 sufficient knowledge, or information or belief, to enable Defendant to answer the
12 allegations contained within this paragraph, as stated, and on those grounds deny
13 generally and specifically each and every allegation contained therein – and
14 Defendants deny all liability and/or wrongdoing.

15 90. Answering Paragraph 90 of the SAC: Answering Defendants do not have
16 sufficient knowledge, or information or belief, to enable Defendant to answer the
17 allegations contained within this paragraph, as stated, and on those grounds deny
18 generally and specifically each and every allegation contained therein – and
19 Defendants deny all liability and/or wrongdoing.

20 91. Answering Paragraph 91 of the SAC: Answering Defendant repeat,
21 reiterate, and re-allege all of the admissions and denials contained in the foregoing
22 Answer which are set forth to each and every allegation contained in paragraphs 1
23 through 90, inclusive, of the SAC.

24 92. Answering Paragraph 92 of the SAC: Answering Defendants do not have
25 sufficient knowledge, or information or belief, to enable Defendant to answer the
26 allegations contained within this paragraph, as stated, and on those grounds deny
27 generally and specifically each and every allegation contained therein – and
28 Defendants deny all liability and/or wrongdoing.

1 93. Answering Paragraph 93 of the SAC: Answering Defendants do not have
2 sufficient knowledge, or information or belief, to enable Defendant to answer the
3 allegations contained within this paragraph, as stated, and on those grounds deny
4 generally and specifically each and every allegation contained therein – and
5 Defendants deny all liability and/or wrongdoing.

6 94. Answering Paragraph 94 of the SAC: Answering Defendants do not have
7 sufficient knowledge, or information or belief, to enable Defendant to answer the
8 allegations contained within this paragraph, as stated, and on those grounds deny
9 generally and specifically each and every allegation contained therein – and
10 Defendants deny all liability and/or wrongdoing.

11 95. Answering Paragraph 95 of the SAC: Answering Defendant repeat,
12 reiterate, and re-allege all of the admissions and denials contained in the foregoing
13 Answer which are set forth to each and every allegation contained in paragraphs 1
14 through 94, inclusive, of the SAC.

15 96. Answering Paragraph 96 of the SAC: Answering Defendants do not have
16 sufficient knowledge, or information or belief, to enable Defendant to answer the
17 allegations contained within this paragraph, as stated, and on those grounds deny
18 generally and specifically each and every allegation contained therein – and
19 Defendants deny all liability and/or wrongdoing.

20 97. Answering Paragraph 97 of the SAC including subparagraphs (a)-(k):
21 Answering Defendants do not have sufficient knowledge, or information or belief, to
22 enable Defendant to answer the allegations contained within this paragraph, as stated,
23 and on those grounds deny generally and specifically each and every allegation
24 contained therein – and Defendants deny all liability and/or wrongdoing.

25 98. Answering Paragraph 98 of the SAC: Answering Defendants do not have
26 sufficient knowledge, or information or belief, to enable Defendant to answer the
27 allegations contained within this paragraph, as stated, and on those grounds deny
28 generally and specifically each and every allegation contained therein – and

1 Defendants deny all liability and/or wrongdoing.

2 99. Answering Paragraph 99 of the SAC: Answering Defendants do not have
3 sufficient knowledge, or information or belief, to enable Defendant to answer the
4 allegations contained within this paragraph, as stated, and on those grounds deny
5 generally and specifically each and every allegation contained therein – and
6 Defendants deny all liability and/or wrongdoing.

7 100. Answering Paragraph 100 of the SAC: Answering Defendants do not
8 have sufficient knowledge, or information or belief, to enable Defendant to answer
9 the allegations contained within this paragraph, as stated, and on those grounds deny
10 generally and specifically each and every allegation contained therein – and
11 Defendants deny all liability and/or wrongdoing.

12 101. Answering Paragraph 101 of the SAC: Answering Defendants repeat,
13 reiterate, and re-allege all of the admissions and denials contained in the foregoing
14 Answer which are set forth to each and every allegation contained in paragraphs 1
15 through 100, inclusive, of the SAC.

16 102. Answering Paragraph 102 of the SAC: Answering Defendants do not
17 have sufficient knowledge, or information or belief, to enable Defendant to answer
18 the allegations contained within this paragraph, as stated, and on those grounds deny
19 generally and specifically each and every allegation contained therein – and
20 Defendants deny all liability and/or wrongdoing.

21 103. Answering Paragraph 103 of the SAC: Answering Defendants do not
22 have sufficient knowledge, or information or belief, to enable Defendant to answer
23 the allegations contained within this paragraph, as stated, and on those grounds deny
24 generally and specifically each and every allegation contained therein – and
25 Defendants deny all liability and/or wrongdoing.

26 104. Answering Paragraph 104 of the SAC: Answering Defendants do not
27 have sufficient knowledge, or information or belief, to enable Defendant to answer
28 the allegations contained within this paragraph, as stated, and on those grounds deny

1 generally and specifically each and every allegation contained therein – and
2 Defendants deny all liability and/or wrongdoing.

3 105. Answering Paragraph 105 of the SAC: Answering Defendants do not
4 have sufficient knowledge, or information or belief, to enable Defendant to answer
5 the allegations contained within this paragraph, as stated, and on those grounds deny
6 generally and specifically each and every allegation contained therein – and
7 Defendants deny all liability and/or wrongdoing.

8 106. Answering Paragraph 106 of the SAC: Answering Defendants do not
9 have sufficient knowledge, or information or belief, to enable Defendant to answer
10 the allegations contained within this paragraph, as stated, and on those grounds deny
11 generally and specifically each and every allegation contained therein – and
12 Defendants deny all liability and/or wrongdoing.

13 107. Answering Paragraph 107 of the SAC: Answering Defendants do not
14 have sufficient knowledge, or information or belief, to enable Defendant to answer
15 the allegations contained within this paragraph, as stated, and on those grounds deny
16 generally and specifically each and every allegation contained therein – and
17 Defendants deny all liability and/or wrongdoing.

18 108. Answering Paragraph 108 of the SAC: Answering Defendants do not
19 have sufficient knowledge, or information or belief, to enable Defendant to answer
20 the allegations contained within this paragraph, as stated, and on those grounds deny
21 generally and specifically each and every allegation contained therein – and
22 Defendants deny all liability and/or wrongdoing.

23 109. Answering Paragraph 109 of the SAC: Answering Defendants repeat,
24 reiterate, and re-allege all of the admissions and denials contained in the foregoing
25 Answer which are set forth to each and every allegation contained in paragraphs 1
26 through 108, inclusive, of the SAC.

27 110. Answering Paragraph 110 of the SAC: Answering Defendants do not
28 have sufficient knowledge, or information or belief, to enable Defendant to answer

1 the allegations contained within this paragraph, as stated, and on those grounds deny
2 generally and specifically each and every allegation contained therein – and
3 Defendants deny all liability and/or wrongdoing.

4 111. Answering Paragraph 111 of the SAC: Answering Defendants do not
5 have sufficient knowledge, or information or belief, to enable Defendant to answer
6 the allegations contained within this paragraph, as stated, and on those grounds deny
7 generally and specifically each and every allegation contained therein – and
8 Defendants deny all liability and/or wrongdoing.

9 112. Answering Paragraph 112 of the SAC: Answering Defendants do not
10 have sufficient knowledge, or information or belief, to enable Defendant to answer
11 the allegations contained within this paragraph, as stated, and on those grounds deny
12 generally and specifically each and every allegation contained therein – and
13 Defendants deny all liability and/or wrongdoing.

14 113. Answering Paragraph 113 of the SAC: Answering Defendants do not
15 have sufficient knowledge, or information or belief, to enable Defendant to answer
16 the allegations contained within this paragraph, as stated, and on those grounds deny
17 generally and specifically each and every allegation contained therein – and
18 Defendants deny all liability and/or wrongdoing.

19 114. Answering Paragraph 114 of the SAC: Answering Defendants do not
20 have sufficient knowledge, or information or belief, to enable Defendant to answer
21 the allegations contained within this paragraph, as stated, and on those grounds deny
22 generally and specifically each and every allegation contained therein – and
23 Defendants deny all liability and/or wrongdoing.

24 115. Answering Paragraph 115 of the SAC: Answering Defendants do not
25 have sufficient knowledge, or information or belief, to enable Defendant to answer
26 the allegations contained within this paragraph, as stated, and on those grounds deny
27 generally and specifically each and every allegation contained therein – and
28 Defendants deny all liability and/or wrongdoing.

1 116. Answering Paragraph 116 of the SAC: Answering Defendants do not
2 have sufficient knowledge, or information or belief, to enable Defendant to answer
3 the allegations contained within this paragraph, as stated, and on those grounds deny
4 generally and specifically each and every allegation contained therein – and
5 Defendants deny all liability and/or wrongdoing.

6 117. Answering Paragraph 117 of the SAC: Answering Defendants do not
7 have sufficient knowledge, or information or belief, to enable Defendant to answer
8 the allegations contained within this paragraph, as stated, and on those grounds deny
9 generally and specifically each and every allegation contained therein – and
10 Defendants deny all liability and/or wrongdoing.

11 118. Answering Paragraph 118 of the SAC: Answering Defendants do not
12 have sufficient knowledge, or information or belief, to enable Defendant to answer
13 the allegations contained within this paragraph, as stated, and on those grounds deny
14 generally and specifically each and every allegation contained therein – and
15 Defendants deny all liability and/or wrongdoing.

16 119. Answering Paragraph 119 of the SAC: Answering Defendants repeat,
17 reiterate, and re-allege all of the admissions and denials contained in the foregoing
18 Answer which are set forth to each and every allegation contained in paragraphs 1
19 through 118, inclusive, of the SAC.

20 120. Answering Paragraph 120 of the SAC: Answering Defendants do not
21 have sufficient knowledge, or information or belief, to enable Defendant to answer
22 the allegations contained within this paragraph, as stated, and on those grounds deny
23 generally and specifically each and every allegation contained therein – and
24 Defendants deny all liability and/or wrongdoing.

25 121. Answering Paragraph 121 of the SAC: Answering Defendants do not
26 have sufficient knowledge, or information or belief, to enable Defendant to answer
27 the allegations contained within this paragraph, as stated, and on those grounds deny
28 generally and specifically each and every allegation contained therein – and

1 Defendants deny all liability and/or wrongdoing.

2 122. Answering Paragraph 122 of the SAC: Answering Defendants do not
3 have sufficient knowledge, or information or belief, to enable Defendant to answer
4 the allegations contained within this paragraph, as stated, and on those grounds deny
5 generally and specifically each and every allegation contained therein – and
6 Defendants deny all liability and/or wrongdoing.

7 123. Answering Paragraph 123 of the SAC: Answering Defendants do not
8 have sufficient knowledge, or information or belief, to enable Defendant to answer
9 the allegations contained within this paragraph, as stated, and on those grounds deny
10 generally and specifically each and every allegation contained therein – and
11 Defendants deny all liability and/or wrongdoing.

12 124. Answering Paragraph 124 of the SAC: Answering Defendants do not
13 have sufficient knowledge, or information or belief, to enable Defendant to answer
14 the allegations contained within this paragraph, as stated, and on those grounds deny
15 generally and specifically each and every allegation contained therein – and
16 Defendants deny all liability and/or wrongdoing.

17 125. Answering Paragraph 125 of the SAC: Answering Defendants do not
18 have sufficient knowledge, or information or belief, to enable Defendant to answer
19 the allegations contained within this paragraph, as stated, and on those grounds deny
20 generally and specifically each and every allegation contained therein – and
21 Defendants deny all liability and/or wrongdoing.

22 126. Answering Paragraph 126 of the SAC: Answering Defendants repeat,
23 reiterate, and re-allege all of the admissions and denials contained in the foregoing
24 Answer which are set forth to each and every allegation contained in paragraphs 1
25 through 125, inclusive, of the SAC.

26 127. Answering Paragraph 127 of the SAC: Answering Defendants do not
27 have sufficient knowledge, or information or belief, to enable Defendant to answer
28 the allegations contained within this paragraph, as stated, and on those grounds deny

1 generally and specifically each and every allegation contained therein – and
2 Defendants deny all liability and/or wrongdoing.

3 128. Answering Paragraph 128 of the SAC: Answering Defendants do not
4 have sufficient knowledge, or information or belief, to enable Defendants to answer
5 the allegations contained within this paragraph, as stated, and on those grounds deny
6 generally and specifically each and every allegation contained therein – and
7 Defendants deny all liability and/or wrongdoing.

8 129. Answering Paragraph 129 of the SAC: Answering Defendants do not
9 have sufficient knowledge, or information or belief, to enable Defendants to answer
10 the allegations contained within this paragraph, as stated, and on those grounds deny
11 generally and specifically each and every allegation contained therein – and
12 Defendants deny all liability and/or wrongdoing.

13 130. Answering Paragraph 130 of the SAC: Answering Defendants do not
14 have sufficient knowledge, or information or belief, to enable Defendants to answer
15 the allegations contained within this paragraph, as stated, and on those grounds deny
16 generally and specifically each and every allegation contained therein – and
17 Defendants deny all liability and/or wrongdoing.

18 131. Answering Paragraph 131 of the SAC: Answering Defendants do not
19 have sufficient knowledge, or information or belief, to enable Defendants to answer
20 the allegations contained within this paragraph, as stated, and on those grounds deny
21 generally and specifically each and every allegation contained therein – and
22 Defendants deny all liability and/or wrongdoing.

23 132. Answering Paragraph 132 of the SAC: Answering Defendants do not
24 have sufficient knowledge, or information or belief, to enable Defendants to answer
25 the allegations contained within this paragraph, as stated, and on those grounds deny
26 generally and specifically each and every allegation contained therein – and
27 Defendants deny all liability and/or wrongdoing.

28 133. Answering Paragraph 133 of the SAC: Answering Defendants do not

1 have sufficient knowledge, or information or belief, to enable Defendants to answer
2 the allegations contained within this paragraph, as stated, and on those grounds deny
3 generally and specifically each and every allegation contained therein – and
4 Defendants deny all liability and/or wrongdoing.

5 134. Answering Paragraph 134 of the SAC: Answering Defendants do not
6 have sufficient knowledge, or information or belief, to enable Defendants to answer
7 the allegations contained within this paragraph, as stated, and on those grounds deny
8 generally and specifically each and every allegation contained therein – and
9 Defendants deny all liability and/or wrongdoing.

10 135. Answering Paragraph 135 of the SAC: Answering Defendants do not
11 have sufficient knowledge, or information or belief, to enable Defendants to answer
12 the allegations contained within this paragraph, as stated, and on those grounds deny
13 generally and specifically each and every allegation contained therein – and
14 Defendants deny all liability and/or wrongdoing.

15 136. Answering Paragraph 136 of the SAC: Answering Defendants do not
16 have sufficient knowledge, or information or belief, to enable Defendants to answer
17 the allegations contained within this paragraph, as stated, and on those grounds deny
18 generally and specifically each and every allegation contained therein – and
19 Defendants deny all liability and/or wrongdoing.

20 137. Answering Paragraph 137 of the SAC: Answering Defendants do not
21 have sufficient knowledge, or information or belief, to enable Defendants to answer
22 the allegations contained within this paragraph, as stated, and on those grounds deny
23 generally and specifically each and every allegation contained therein – and
24 Defendants deny all liability and/or wrongdoing.

25 138. Answering plaintiffs' Prayer For Relief, including subsections (1)
26 through (8), Defendants deny all liability to plaintiffs, including, but not limited to,
27 all liability for any and all damages, including compensatory damages, special
28 damages, funeral and burial expenses, punitive and exemplary damages, statutory

1 damages, attorneys' fees, costs of suit, pre-death pain and suffering and loss of life,
2 wrongful death damages, and/or for any relief of any kind from Defendants to
3 plaintiffs.

4 139. To the extent plaintiffs assert any other claims or contentions not
5 specifically addressed herein above, Defendants generally and specifically denies
6 each and every remaining allegation and/or claim – and Defendants deny all liability
7 and/or wrongdoing.

AFFIRMATIVE DEFENSES

1. As separate and affirmative defenses, Defendants allege as follows:

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

12 2. Plaintiffs' SAC, and each alleged cause of action in it, fails to state a
13 claim upon which relief can be granted.

14 3. Plaintiffs' SAC also fails to state a claim against any Defendant in this
15 action.

SECOND AFFIRMATIVE DEFENSE

(Tort Claims Act Violation)

18 4. This action is barred by plaintiffs' failure to comply with the government
19 tort claims presentation requirements, California Government Code § 900, *et seq.*,
20 including but not limited to §§ 900, 900.4, 901, 905, 905.2, 910, 911, 911.2, 911.4,
21 945.4, 945.6, 946.6, 950.2, and 950.6, to the extent applicable.

22 5. The SAC is barred based on plaintiffs' failure to exhaust administrative
23 remedies prior to filing this lawsuit.

24 6. Plaintiffs' recovery is barred because the causes of action stated in the
25 SAC do not correspond with the legal claims asserted in plaintiffs' written claim. The
26 SAC thereby alleges legal bases for recovery which are not fairly reflected in the
27 written claim(s).

28 | ///

1 ///

THIRD AFFIRMATIVE DEFENSE
(Waiver, Estoppel, Unclean Hands)

4 7. Defendants allege that plaintiffs' actions are barred by reason of conduct,
 5 actions and inactions of plaintiffs which amount to and constitute a waiver of any
 6 right plaintiff(s) may or might have had in reference to the matters and things alleged
 7 in the SAC, or that otherwise estop plaintiffs from recovery in this action, including
 8 but not limited to the doctrine of unclean hands.

FOURTH AFFIRMATIVE DEFENSE
(Failure to Mitigate Damages)

11 8. Plaintiffs' claims are barred or limited to the extent plaintiffs failed to
 12 mitigate plaintiffs' injuries or damages, if there were any. Plaintiffs have failed to
 13 mitigate the damages, if any, which plaintiff(s) has/have sustained, and to exercise
 14 reasonable care to avoid the consequences of harms, if any, in that, among other
 15 things, plaintiffs have failed to use reasonable diligence in caring for any injuries,
 16 failed to use reasonable means to prevent aggravation of any injuries and failed to
 17 take reasonable precautions to reduce any injuries and damages.

FIFTH AFFIRMATIVE DEFENSE
(Contributory and/or Comparative Liability)

20 9. Plaintiffs' claims are barred or limited by plaintiff's decedent's
 21 contributory/comparative negligence or other conduct, acts, or omissions, and to the
 22 extent plaintiffs' decedent suffered any injury or damages, it was the result of his own
 23 negligent or deliberate actions or omissions.

24 10. Plaintiffs' recovery is barred because any injury or damage suffered by
 25 plaintiffs' decedent was caused solely by reason of his wrongful acts and conduct and
 26 the willful resistance to a peace officer in the discharge their duties. The conduct set
 27 forth in the SAC, if and to the extent it occurred, was privileged and justified and done
 28 with a good faith belief that it was correct and no action may be taken against the

1 answering Defendants on account of such conduct.

2 **SIXTH AFFIRMATIVE DEFENSE**

3 **(Public Entity/Employee Immunity for Others' Torts)**

4 11. Plaintiffs' recovery is barred because public entities and employees are
 5 immune from liability for any injury caused by the act or omission of another person.
 6 Gov. Code §§ 815 *et seq.*, 820.2 *et seq.*

7 12. The answering Defendants is/are informed and believe and thereon
 8 allege that if plaintiffs sustained any injury or damages, such injury or damages were
 9 solely caused or contributed to by the wrongful conduct of other defendants and/or
 10 entities or persons other than the answering Defendant. To the extent that plaintiffs'
 11 damages were so caused, any recovery by plaintiffs as against the answering
 12 Defendant should be subject to proportionately comparative equitable
 13 indemnity/contribution from such third parties.

14 **SEVENTH AFFIRMATIVE DEFENSE**

15 **(Public Entity/Employee Immunity for Discretionary Acts)**

16 13. There is no liability for any injury or damages, if any there were,
 17 resulting from an exercise of discretion vested in a public employee, whether or not
 18 such discretion be abused. Gov. Code § 815.2, 820.2, 820.4, 820.8, 820 *et seq.*

19 14. Plaintiffs' recovery is barred because public entities and employees are
 20 immune from liability for discharging their mandatory duties with reasonable
 21 diligence.

22 15. A public employee may not be held liable for injuries or damages, if any,
 23 caused by failure to adopt or by adoption of an enactment or by failure to enforce an
 24 enactment and/or law, for an injury caused by his issuance, denial, suspension or
 25 revocation or by his failure or refusal to issue, deny, suspend or revoke, any permit,
 26 license, certificate, approval, order, or similar authorization, where he is authorized
 27 by enactment to determine whether or not such authorization should be issued, denied,
 28 suspended or revoked, pursuant to Government Code §§ 818.2, 818.4, 818.8, 821 and

1 821.2. Based thereon, the answering defendants is/are immune from liability for any
2 injuries claimed by plaintiffs, herein.

3 16. Defendant(s) is/are immune for any detriment resulting from any of its
4 actions or omissions at the time of the incident of which plaintiffs complain pursuant
5 to Government Code § 810 *et seq.*, 815 *et seq.*, 820 *et seq.*, and 845 *et seq.*, including,
6 but not limited to, §§ 810, 810.2, 810.4, 810.6, 810.8, 811, 811.2, 811.4, 811.6, 811.8,
7 820.6, 820.8, 821, 821.2, 821.4, 821.6, 821.8, 822.2, 830.5, 830.6, 835.4, 844.6, and
8 Government Code §§ 854, *et seq.*, including, but not limited to, §§ 845.6, 854.6,
9 854.8(a)(2), and §§ 855.4, 855.6, 855.8 and 856.4.

EIGHTH AFFIRMATIVE DEFENSE

(Public Entity Immunity)

12 17. To the extent that the SAC attempts to predicate liability upon any public
13 entity defendant or any employee thereof for purported negligence in retention, hiring,
14 employment, training, or supervision of any public employee, such liability is barred
15 by Government Code sections 815.2 and 820.2 and *Herndon v. County of Marin*
16 (1972) 25 Cal. App. 3d 933, 935, 936, *rev'd on other grounds by Sullivan v. County*
17 *of Los Angeles* (1974) 12 Cal.3d 710; and by the lack of any duty running to plaintiffs;
18 by the fact that any such purported act or omission is governed exclusively by statute
19 and is outside the purview of any public employees' authority; and by the failure of
20 any such acts or omissions to be the proximate or legal cause of any injury alleged in
21 the Complaint. *See de Villers v. County of San Diego*, 156 Cal.App.4th 238, 251-253,
22 255-256 (2007).

23 18. Defendants may not be held liable on a *respondeat superior* theory for
24 any negligent or wrongful act or omission on the part of any subordinate. Cal.
25 Government Code §§ 844.6, 845.6; Cal. Civil Code § 2351; *Malloy v. Fong* (1951)
26 37 Cal.2d 356, 378-379; *Monell v. Department of Social Services of the City of New*
27 *York* (1978) 436 U.S. 658; *Larez v. City of Los Angeles* (9th Cir. 1991) 946 F.2d 630,
28 645-646; *cf. City of Canton v. Harris*, 489 U.S. 378, 388-389 (1989); *City of Los*

¹ *Angeles v. Heller*, 475 U.S. 796 (1986).

NINTH AFFIRMATIVE DEFENSE

(Qualified Immunity & Good Faith Immunity)

4 19. Defendant City and its agents or officers at all times relevant to this
5 action acted reasonably and prudently under the circumstances. Defendants therefore
6 assert the individual defendant's Qualified Immunity from liability to the fullest extent
7 applicable.

8 20. The individual defendants are immune from liability under the Federal
9 Civil Rights Act because a reasonable police officer could believe that his acts and
10 conduct were objectively reasonable under the totality of the circumstances.
11 Defendants are immune from liability under the Federal Civil Rights Act because their
12 conduct did not violate clearly established rights of which a reasonable officer would
13 have known. Defendants are also immune from liability under the doctrine of
14 Qualified Immunity.

15 21. At all relevant times, Defendants acted within the scope of discretion,
16 with due care, and good faith fulfillment of responsibilities pursuant to applicable
17 statutes, rules and regulation, within the bounds of reason, and with the good faith
18 belief that their actions comported with all applicable federal and state laws. *Harlow*
19 v. *Fitzgerald* (1982) 457 U.S. 800; Cal Gov. Code §§ 815.2 and 820.2.

TENTH AFFIRMATIVE DEFENSE

(Assumption of Risk)

22 22. At the time and place referred to in the SAC, and before such event,
23 plaintiffs' decedent knew, appreciated, and understood each and every risk involved
24 in placing himself in the position which plaintiff then assumed, and willingly,
25 knowingly and voluntarily assumed each of such risks, including, but not limited to,
26 the risk of suffering personal bodily injury and/or lawful deprivation of right(s).

27 23. Defendants contend that they cannot fully anticipate all affirmative
28 defenses that may be applicable to this action based on the conclusory terms used in

1 plaintiffs' Complaint. Accordingly, Defendants expressly reserve the right to assert
2 additional affirmative defenses if and to the extent that such affirmative defenses
3 become applicable.

4 **JURY DEMAND**

5 24. Defendants demands a trial by jury as to each issue triable by jury.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, the answering Defendant prays as follows:

- 8 1. That plaintiffs take nothing by this action;
9 2. That Defendants be awarded attorneys' fees, costs of suit and costs of
10 proof, and such other relief as the Court deems just and proper.

11 DATED: August 5, 2025

12 **MANNING & KASS
ELLROD, RAMIREZ, TRESTER LLP**

13 By: _____ /s/ Mildred K. O'Linn

14 Mildred K. O'Linn
15 Lynn L. Carpenter
16 Maya R. Sorensen
17 Attorneys for Defendants, CITY OF
FRESNO

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